

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEBRA BRITTENHAM,

Plaintiff,

v.

HOME DEPOT U.S.A., INC.,

Defendant.

Case No. 1:23-cv-00401-CDB

SCHEDULING ORDER (Fed. R. Civ. P. 16)

Discovery Deadlines:

Pleading Amendments: August 21, 2023

Rule 26 Disclosures: July 21, 2023

Non-Expert: February 23, 2024

Expert: September 13, 2024

Mid-Discovery Conf.: November 16, 2023

Non-Dispositive Motion Deadlines:

Filing: September 13, 2024

Hearing: On or before October 18, 2024

Dispositive Motion Deadlines:

Filing: November 8, 2024

Hearing: On or before December 13, 2024

Pre-Trial Conference: February 3, 2025

at 10:30 a.m., 510 19th Street, Bakersfield

Trial: March 31, 2025

at 8:30 a.m., 510 19th Street, Bakersfield

Plaintiff originally filed this action in the Superior Court for the State of California, County of Kern, on August 26, 2022. The action was removed to this Court on March 17, 2023. (Doc. 1). Plaintiff alleges that while at Defendant's premises, she was seriously injured when retrieving a

product from the shelving unit that was blocked by a ladder. Plaintiff raises claims for negligence and premises liability against Defendant.

I. Pleading Amendment Deadline

Any requested pleading amendments are ordered to be filed, either through a stipulation or motion for leave to amend by no later than **August 21, 2023**.

II. Fictitiously-Named Defendants

All claims as to “Doe” Defendants, including any counterclaims and cross-claims, are hereby **Dismissed**.

III. Discovery Plan and Cut-Off Date

The parties must exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1) on or before **July 21, 2023**.

The parties are ordered to complete all discovery pertaining to non-experts on or before **February 23, 2024**, and all discovery pertaining to experts on or before **September 13, 2024**.

The parties are directed to disclose all expert witnesses, in writing, on or before **April 15, 2024**, and to disclose all rebuttal experts on or before **May 15, 2024**. The written designation of retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and shall include all information required thereunder. Failure to designate experts in compliance with this order may result in the Court excluding the testimony or other evidence offered through such experts that are not disclosed pursuant to this order.

The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts and their opinions. Experts must be fully prepared to be examined on all subjects and opinions included in the designation. Failure to comply may result in the imposition of sanctions, which may include striking the expert designation and preclusion of expert testimony.

The provisions of Fed. R. Civ. P. 26(e) regarding a party’s duty to timely supplement disclosures and responses to discovery requests will be strictly enforced.

A mid-discovery status conference is scheduled for **November 16, 2023**, at 9:30 a.m. before Magistrate Judge Christopher D. Baker. Counsel SHALL file a joint mid-discovery status conference report no later than **one week before the conference**. Counsel also SHALL lodge the status report via

1 e-mail to CDBorders@caed.uscourts.gov. The joint status report SHALL outline the discovery
2 counsel have completed and that which needs to be completed as well as any impediments to
3 completing the discovery within the deadlines set forth in this order. Counsel SHALL discuss
4 settlement and certify in the joint status report (1) that they have met/conferred regarding settlement,
5 and (2) proposed dates for convening a settlement conference with an unassigned magistrate judge.

6 **IV. Pre-Trial Motion Schedule**

7 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
8 than **September 13, 2024**,¹ and heard on or before **October 18, 2024**. Motions are heard before
9 Magistrate Judge Baker at 10:30 a.m., at the United States District Courthouse, 510 19th Street,
10 Bakersfield, CA.

11 No motion to amend or stipulation to amend the case schedule will be entertained unless it is
12 filed at least one week before the first deadline the parties wish to extend. Likewise, no written
13 discovery motions shall be filed without the prior approval of the Court. A party with a discovery
14 dispute must first confer with the opposing party in a good faith effort to resolve by agreement the
15 issues in dispute. If that good faith effort is unsuccessful, the moving party promptly shall seek a
16 hearing with all involved parties and Magistrate Judge Baker. To schedule this hearing, the parties are
17 ordered to contact the Courtroom Deputy Clerk, Susan Hall, at (661) 326-6620 or via email at
18 SHall@caed.uscourts.gov. At least three days before the conference, counsel SHALL file informal
19 letter briefs detailing their positions. The briefs may not exceed 5 pages, excluding exhibits. Counsel
20 must comply with Local Rule 251 with respect to discovery disputes.

21 All dispositive pre-trial motions shall be filed no later than **November 8, 2024**, and heard on or
22 before **December 13, 2024**. Motions are heard before Magistrate Judge Baker at 10:30 a.m., at the
23 United States District Courthouse, 510 19th Street, Bakersfield, CA.

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28 ¹ Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time
of discovery of the dispute, but in no event later than 30 days after the expiration of the non-expert discovery
deadline.

1 **V. Motions for Summary Judgment or Summary Adjudication**

2 At least 21 days before filing a motion for summary judgment or motion for summary
3 adjudication, the parties SHALL meet, in person or by telephone, to confer about the issues to be
4 raised in the motion.

5 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
6 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
7 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
8 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
9 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

10 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed
11 statement of undisputed facts **at least five days before** the conference. The finalized joint statement
12 of undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be
13 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
14 statement of undisputed facts.

15 In the notice of motion, the moving party SHALL certify that the parties have met and
16 conferred as ordered above, or set forth a statement of good cause for the failure to meet and confer.
17 Failure to comply may result in the motion being stricken.

18 **VI. Pre-Trial Conference**

19 **February 3, 2025**, at 10:30 a.m., located at the United States District Courthouse, 510 19th
20 Street, Bakersfield, CA, before Magistrate Judge Baker.

21 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The
22 parties are further directed to submit a digital copy of their pretrial statement in Word format, directly
23 to Magistrate Judge Baker's chambers, by email at CDBorders@caed.uscourts.gov.

24 Counsels' attention is directed to Rules 281 and 282 of the Local Rules for the Eastern District
25 of California, as to the obligations of counsel in preparing for the pre-trial conference. The Court will
26 insist upon strict compliance with those rules. In addition to the matters set forth in the Local Rules,
27 the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the Court to
28 explain the nature of the case to the jury during voir dire.

1 **VII. Trial Date**

2 **March 31, 2025**, at 8:30 a.m., located at the United States District Courthouse, 510 19th Street,
3 Bakersfield, CA, before Magistrate Judge Baker.

4 A. This is a jury trial

5 B. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
6 California, Rule 285.

7 **VIII. Settlement Conference**

8 The parties SHALL meet and confer and notify the Court prior to the Pre-Trial Conference
9 whether they wish to convene a Settlement Conference. In the event the parties request a Settlement
10 Conference, unless otherwise permitted in advance by the Court, the attorneys who will try the case
11 shall appear at the settlement conference **with the parties** and the person or persons having full
12 authority to negotiate and settle the case on any terms² at the conference. Consideration of settlement
13 is a serious matter that requires preparation prior to the settlement conference. Set forth below are the
14 procedures the Court will employ, absent good cause, in conducting the conference.

15 At least twenty-one days before the settlement conference, Plaintiff SHALL submit to
16 Defendant via fax or e-mail, a written itemization of damages and a meaningful³ settlement demand
17 which includes a brief explanation of why such a settlement is appropriate. Thereafter, no later than
18 fourteen days before the settlement conference, Defendant SHALL respond, via fax or e-mail, with an
19 acceptance of the offer or with a meaningful counteroffer which includes a brief explanation of why
20 such a settlement is appropriate.

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23 ² Insurance carriers, business organizations, and governmental bodies or agencies whose settlement
24 agreements are subject to approval by legislative bodies, executive committees, boards of directors or the like
25 shall be represented by a person or persons who occupy high executive positions in the party organization and
26 who will be directly involved in the process of approval of any settlement offers or agreements. To the extent
possible, the representative shall have authority, if he or she deems it appropriate, to settle the action on terms
consistent with the opposing party's most recent demand.

27 ³ "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to the
28 offering party. "Meaningful" does not include an offer which the offering party knows will not be acceptable to
the other party. If, however, the offering party is only willing to offer a settlement which it knows the other party
will not accept, this should trigger a recognition the case is not in a settlement posture and the parties should
confer about continuing or vacating the settlement conference via stipulation.

1 If settlement is not achieved, each party SHALL attach copies of their settlement offers to their
2 Confidential Settlement Conference Statement, as described below. Copies of these documents shall
3 not be filed on the court docket.

4 CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT

5 At least five court days prior to the settlement conference, the parties shall submit a
6 Confidential Settlement Conference Statement via email directly to the chambers of the unassigned
7 magistrate judge referred to the settlement conference. The statement should not be filed with the
8 Clerk of the Court nor served on any other party, although the parties may file a Notice of Lodging of
9 Settlement Conference Statement. Each statement shall be clearly marked "confidential" with the date
10 and time of the settlement conference indicated prominently thereon.

11 The Confidential Settlement Conference Statement shall include the following:

- 12 A. A brief statement of the facts of the case.
- 13 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
14 which the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the
15 claims and defenses; and a description of the major issues in dispute.
- 16 C. A summary of the proceedings to date.
- 17 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
- 18 E. The relief sought.
- 19 F. The party's position on settlement, including present demands and offers and a history
20 of past settlement discussions, offers and demands.

21 **IX. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
22 **Trial**

23 Not applicable at this time.

24 **X. Related Matters Pending**

25 There are no pending related matters.

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XI. Compliance with Federal Procedure

All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of California, and to keep abreast of any amendments thereto. The Court requires compliance with these Rules to efficiently handle its increasing case load.

XII. Effect of this Order

The foregoing order represents the best estimate of the court and counsel as to the agenda most suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by subsequent status conference.

The dates set in this Order are considered to be firm and will not be modified absent a showing of good cause even if the request to modify is made by stipulation. Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations, and where appropriate attached exhibits, which establish good cause for granting the relief requested.

IT IS SO ORDERED.

Dated: **June 23, 2023**


UNITED STATES MAGISTRATE JUDGE